

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

_____	)	
JOHN F. WHOLEY, JR.,	)	
	)	
Petitioner,	)	
	)	
v.	)	Civil No. 23-12566-LTS
	)	Appeal No. 23-02076
HONORABLE JUDGE HEATHER	)	
BRADLEY, et al.,	)	
	)	
Respondents.	)	
_____	)	

ORDER

January 25, 2024

SOROKIN, J.

On November 15, 2023, John Wholey’s *pro se* Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241 was dismissed.<sup>1</sup> Doc. No. 4. The Court found that Wholey failed to satisfy the custody requirement of § 2241. *Id.*

On December 15, 2023, Wholey filed a notice of appeal. Doc. No. 7. Although a certificate of appealability is not essential for a Section 2241 petition, *see Gonzalez v. Justices of Mun. Court of Boston*, 382 F.3d 1, 12 (1st Cir. 2004), *vacated on other grounds*, 544 U.S. 918 (2005), the court declines to issue one. Wholey may receive a certificate of appealability only if he “has made a substantial showing of the denial of a constitutional right.” 28 U.S.C. §

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<sup>1</sup> The mail was returned to the Court as undeliverable on December 5, 2023. Doc. No. 6. The envelope of the returned mail includes the notation: “Return to Sender; No Such Number; Unable to Forward. *Id.* (punctuation added). Under the Court’s Local Rules, “[a] party who appears *pro se* must provide the clerk and all parties a mailing address at which service upon the *pro se* party can be made.” L.R. 83.5.5(e) (D. Mass.). As with any party, a *pro se* litigant must notify the clerk of any change of address. *See* L.R. 83.5.5(h) (D. Mass.).

2253(c)(2). A certificate of appealability is appropriate when “reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong.” *Miller-El v. Cockrell*, 537 U.S. 322, 338 (2003) (citing *Slack v. McDaniel*, 529 U.S. 473, 484 (2000)).

Here, the Court finds that Wholey has not made the required substantial showing of the denial of a constitutional right to justify the issuance of a certificate of appealability. Reasonable jurists would not find it debatable that Wholey failed to show an entitlement to federal habeas corpus relief.

In accordance with the foregoing, the Court DECLINES to issue a Certificate of Appealability. The clerk shall transmit a copy of this Order to the United States Court of Appeals for the First Circuit.

SO ORDERED.

/s/ Leo T. Sorokin  
Leo T. Sorokin  
United States District Judge